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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.    | CONFIRMATION NO. |
|--|-------------|----------------------|------------------------|------------------|
| 10/699,220   | 10/31/2003  | Jim Musbach          | 004-4-1                | 2794             |
| 30080  | 7590        | 06/09/2005           | EXAMINER               |                  |
| LAW OFFICE OF CHARLES E. KRUEGER<br>P.O. BOX 5607<br>WALNUT CREEK, CA 94596-1607 |             |                      | VERBITSKY, GAIL KAPLAN |                  |
|  |             |                      | ART UNIT               | PAPER NUMBER     |
|  |             |                      | 2859                   |                  |
| DATE MAILED: 06/09/2005  |             |                      |                        |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                               |                                |  |
|------------------------------|-------------------------------|--------------------------------|--|
| <b>Office Action Summary</b> | Application No.<br>10/699,220 | Applicant(s)<br>MUSBACH ET AL. |  |
|                              | Examiner<br>Gail Verbitsky    | Art Unit<br>2859               |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2005.  
 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,5 and 6 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1,5 and 6 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☒ The drawing(s) filed on 11 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All    b) ☐ Some \*    c) ☐ None of:  
     1. ☐ Certified copies of the priority documents have been received.  
     2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kienitz (U.S. 20040264542, effective filing date 03/13/2002) in view of Sorensen (U.S. 5335308), Blair (U.S. 6277067) and Winnard (U.S. 6614337).

Kienitz discloses a device/ IR radiometer having a laser sighting system (paragraph [0016]); an IR sensor (detector) with detector optics for focusing IR radiation emitted by an energy zone/ target surface onto the detector (temperature mode) and a digital camera (photography mode) (paragraphs [0038] and [0044]), all located in a portable hand-held housing, as shown in Fig. 1. The device also has a temperature display. Kienitz states that the device is usable in an industrial repair service (paragraph [0018]).

Kienitz does not explicitly teach the particular sighting system, a magnetic base, and that the repair service is repair of automobiles, as claimed by applicant.

Sorensen discloses in Fig. 7 a device in the field of applicant's endeavor comprising an optical pyrometer/ IR sensor (detector) 62, inherently, having an IR optic, the detector 62 is sensing heat/ temperature/ IR on a surface of a target body during repair (automobile) 100; a cross beamed dual laser 90, 92 including two lasers oriented to have their beams crossed at an

optical path of the detector 62. Sorensen is silent about the beams of the lasers are crossing at the focus or the IR optics.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the device during automobile repair, as taught by Sorensen, so as to have illuminate a target surface with a sighting device and enhance an energy spot of interest, so as to allow the operator to evaluate the results of repair by measuring temperature of the exact spot on the surface.

Blair teaches a portable apparatus/ device comprising/ containing a dual laser sighting system including two lasers 24 oriented to have their beams cross (converge) at the focal point of a detector (camera) 30 optics, so as to ensure that a target surface is properly focused in the detector, so as to generate accurate data of the target surface. The detector and the sighting system are, inherently, located in the common housing, as shown in Fig. 4.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device disclosed by Kienitz, so as to have such a sighting system that has the beams crossed at the focus of the detector's optics, as taught by Blair, so as to receive an enhanced spot/ illuminated delineation on the target surface and ensuring that the surface is properly focused, in order to achieve more accurate results when inspecting the surface.

Winnard discloses in Fig. 1 a device having a magnetic surface/ base; the device is attachable to any surface including a surface of a car, so as to attach a tool/ instrument.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device disclosed by Kienitz, so as to add a magnetic base, as

Art Unit: 2859

taught by Winnard, to the device disclosed by Kienitz, so as to make the device attachable to an automobile during inspection, and thus, to allow the operator to fix it at any desirable position, in order to inspect any point of the target surface of the automobile from the best available position.

3. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kienitz, Sorensen (U.S. 5335308), Blair (U.S. 6277067) and Winnard (U.S. 6614337), as applied to claim 1, and further in view of Chung et al. (U.S. 20030202558) [hereinafter Chung].

Kienitz, Sorensen, Blair and Winnard disclosed the device as stated above.

They do not explicitly teach the particular display, as stated in claim 5.

Chang discloses an IR thermometer having a temperature display, the display comprising a flashing backlighting (backlite) supplied by different color (highlights) LED.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the display of the device disclosed by Kienitz, so as to have a flashing colored backlighting, as taught by Chung, so as to attract the operator attention on the temperature data, so as to take appropriate and timely actions.

4. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kienitz, Sorensen (U.S. 5335308), Blair (U.S. 6277067) and Winnard (U.S. 6614337), as applied to claim 1, and further in view of Hollander et al. (U.S. 6095682) [hereinafter Hollander] and Chung et al. (U.S. 20030202558) [hereinafter Chung].

Kienitz, Sorensen, Blair and Winnard disclosed the device as stated above.

They do not explicitly teach the particular display, as stated in claim 6.

Hollander discloses in Fig. 1 a device in the field of applicant's endeavor comprising an emissivity indicator and maximum temperature value on the display. It is inherent, that the maximum value would be updated depending on the particular temperature measurements.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the display of the device disclosed by Kienitz, so as to have a maximum temperature value on the display, as taught by Hollander, so as to allow the operator to immediately evaluate if the measured temperature is above maximal predetermined temperature and to enable the operator take necessary actions.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the display of the device disclosed by Kienitz, so as to have indicate a set emissivity data, as taught by Hollander, so as to allow the operator to evaluate temperature with consideration of the correction factor for emissivity.

Chung discloses an IR thermometer having a temperature display, the display comprising a C/F switch (symbol), a low battery indicator and flashing backlighting (backlite) supplied by different color (highlights) LED.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the display of the device disclosed by Kienitz, so as to have a C/F symbol, as taught by Chung, so as to allow the operator to use the device in different temperature system, and thus, make it useful with European devices.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the display of the device disclosed by Kienitz, so as to have a low

battery indicator, as taught by Chung, so as to remind the operator to replace or charge the battery, in order to provide a proper and timely maintenance of the device.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the display of the device disclosed by Kienitz, so as to have a flashing colored backlighting, as taught by Chung, so as to attract the operator attention on the temperature data, so as to take appropriate and timely actions.

5. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hollander et al. (U.S. 6095682) in view of Sorensen (U.S. 5335308), Blair (U.S. 6277067) and Winnard (U.S. 6614337).

Hollander discloses a device/ IR radiometer having a laser sighting system; an IR sensor (detector) with detector optics (lens) for focusing IR radiation emitted by an energy zone/ target surface onto the detector, all located in a portable hand-held housing, as shown in Fig. 1. The device also has a temperature display. Hollander discloses in Fig. 1 a device in the field of applicant's endeavor comprising an emissivity indicator and maximum temperature value on the display. It is inherent, that the maximum value would be updated depending on the particular temperature measurements.

Hollander does not explicitly teach the particular sighting system, a magnetic base, and that the repair service is repair of automobiles, as claimed by applicant.

Sorensen discloses in Fig. 7 a device in the field of applicant's endeavor comprising an optical pyrometer/ IR sensor (detector) 62, inherently, having an IR optic, the detector 62 is sensing heat/ temperature/ IR on a surface of a target body during repair (automobile) 100; a cross beamed dual laser 90, 92 including two lasers oriented to have their beams crossed at an

optical path of the detector 62. Sorensen is silent about the beams of the lasers are crossing at the focus or the IR optics.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the device during automobile repair, as taught by Sorensen, so as to have illuminate a target surface with a sighting device and enhance an energy spot of interest, so as to allow the operator to evaluate the results of repair by measuring temperature of the exact spot on the surface.

Blair teaches a portable apparatus/ device comprising/ containing a dual laser sighting system including two lasers 24 oriented to have their beams cross (converge) at the focal point of a detector (camera) 30 optics, so as to ensure that a target surface is properly focused in the detector, so as to generate accurate data of the target surface. The detector and the sighting system are, inherently, located in the common housing, as shown in Fig. 4.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device disclosed by Hollander, so as to have such a sighting system that has the beams crossed at the focus of the detector's optics, as taught by Blair, so as to receive an enhanced spot/ illuminated delineation on the target surface and ensuring that the surface is properly focused, in order to achieve more accurate results when inspecting the surface.

Winnard discloses in Fig. 1 a device having a magnetic surface/ base; the device is attachable to any surface including a surface of a car, so as to attach a tool/ instrument.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device disclosed by Hollander, so as to add a magnetic base,



as taught by Winnard, to the device disclosed by Hollander, so as to make the device attachable to an automobile during inspection, and thus, to allow the operator to fix it at any desirable position, in order to inspect any point of the target surface of the automobile from the best available position.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hollander, Sorensen (U.S. 5335308), Blair (U.S. 6277067) and Winnard (U.S. 6614337), as applied to claim 1, and further in view of Chung et al. (U.S. 20030202558) [hereinafter Chung].

Hollander, Sorensen, Blair and Winnard disclosed the device as stated above.

They do not explicitly teach the particular display, as stated in claim 5.

Chang discloses an IR thermometer having a temperature display, the display comprising a flashing backlighting (backlite) supplied by different color (highlights) LED.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the display of the device disclosed by Hollander, so as to have a flashing colored backlighting, as taught by Chung, so as to attract the operator attention on the temperature data, so as to take appropriate and timely actions.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hollander, Sorensen (U.S. 5335308), Blair (U.S. 6277067) and Winnard (U.S. 6614337), as applied to claim 1, and further in view of Chung et al. (U.S. 20030202558) [hereinafter Chung].

Hollander, Sorensen, Blair and Winnard disclosed the device as stated above.

They do not explicitly teach the particular display, as stated in claim 6.

Chung discloses an IR thermometer having a temperature display, the display comprising a C/F switch (symbol), a low battery indicator and flashing backlighting (backlite) supplied by different color (highlights) LED.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the display of the device disclosed by Hollander, so as to have a C/F symbol, as taught by Chung, so as to allow the operator to use the device in different temperature system, and thus, make it useful with European devices.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the display of the device disclosed by Hollander, so as to have a low battery indicator, as taught by Chung, so as to remind the operator to replace or charge the battery, in order to provide a proper and timely maintenance of the device.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the display of the device disclosed by Hollander, so as to have a flashing colored backlighting, as taught by Chung, so as to attract the operator attention on the temperature data, so as to take appropriate and timely actions.

### ***Response to Arguments***

8. Applicant's arguments are considered and fully persuasive. However, the claims are now rejected in view of new ground of rejection.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited in the PTO-892 and not mentioned above disclose related devices and methods.

*Hollander et al. (U.S. 5823679) discloses in Fig. 12 a device comprising a IR temperature measuring and processing device including an IR optics, inherently having a focal length, the optic directing an IR energy from an energy zone from a target onto an IR sensor so as to determine the temperature of the target at the energy zone. The device has a dual laser sighting device. Hollander does not teach beam crossing.*

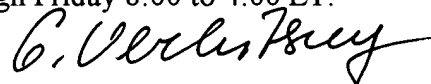
*Hollander discloses in Fig. 12 a device comprising a dual laser device for illuminating (visibly outlining periphery, col. 4, lines 44-61) an area around the center of an energy zone of a target. Hollander does not teach beam crossing.*

*Daringer et al. (U.S. 4315150) discloses an IR thermometer having a sighting system comprising two intersecting light beams and an IR detector to detect IR from a target surface. The thermometer is located in housing, as shown in Fig. 1. Daringer does not teach beam crossing at the focus of the IR optics.*

Any inquiry concerning this communication should be directed to the Examiner Verbitsky who can be reached at (571) 272-2253 Monday through Friday 8:00 to 4:00 ET.

GKV

Gail Verbitsky  
Primary Patent Examiner, TC 2800



June 03, 2005